

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION (CINCINNATI)

FILED
JOHN P. NEHMAN
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U.S. DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WEST DIV. CINCINNATI

GREENWOOD MOTOR LINES, INC.,
dba R+L Carriers,
600 Gillam Road
Wilmington, OH 45177

PLAINTIFF,

vs.

PC CONNECTION, INC.,
fka MERRIMACK SERVICES CORPORATION,
730 Milford Road
Merrimack, New Hampshire 03054

SERVE:
CT Corporation System
Registered Agent
1300 East 9th Street
Cleveland, Ohio 44114

DEFENDANT.

Case No.

1:14CV881

Judge

J. DLOTT

COMPLAINT FOR DAMAGES
AND REQUEST FOR
DECLARATORY RELIEF

GREENWOOD MOTOR LINES, INC., dba R+L Carriers (hereinafter "R+L" or
"Plaintiff"), by its attorneys, submits its Complaint For Damages and Request For Declaratory
Relief, stating as follows:

THE PARTIES

1. R+L is and was at all relevant times herein mentioned, a corporation organized
and existing under the laws of the State of South Carolina, with its principal place of business at
600 Gillam Road, Wilmington, OH 45177, operating as a for-hire motor carrier of goods by
truck in interstate, intrastate, and foreign commerce.

2. Defendant PC CONNECTION, INC. (hereinafter "PC Connection") is a
Delaware corporation with its principal place of business at 730 Milford Road, Merrimack, NH

03054. On information and belief, PC Connection previously did business as Merrimack Services Corporation or is the successor to that corporation through merger. PC Connection operates a warehouse located at 2840 Old State Route 73, Wilmington, OH 45177.

JURISDICTION AND VENUE

3. R+L performed trucking services for PC Connection involving movements which originated largely at the facilities of PC Connection in Wilmington, OH, pursuant to a master contract between the parties and individual bill of lading contracts signed by or on behalf of PC Connection. Invoices issued for the performance of such services remain unpaid in the amount of \$62,821.83.

4. PC Connection filed claims against R+L with respect to alleged losses of items allegedly tendered to R+L for transportation at Wilmington, OH, and has asserted that it suffered damages for which it has not been compensated by R+L in the amount of \$146,025.00.

5. The Complaint in this matter seeks recovery by R+L from PC Connection in the amounts of either \$62,821.83 or \$89,310.83 and a declaratory determination that R+L is not liable to PC Connection in the amount of \$146,025.00 as claimed by PC Connection.

6. This Court has jurisdiction over the subject matter of this action under 28 U.S.C. § 1332, based on the diversity of citizenship between R+L and Defendant and an amount in controversy that exceeds \$75,000, exclusive of interest and costs.

7. This Court also has jurisdiction over the subject matter of this action under 28 U.S.C. § 1331 and 1337 in that R+L's action to collect freight charges on interstate truck shipments and its denial of liability for freight loss claims arising from interstate truck shipments raise federal questions under Acts of Congress regulating commerce, 49 U.S.C. §§ 13701, 13706, 13708, 13709, 14101(b), and 14706.

8. The claims involved in this litigation arose in this District, so as to make venue proper in this District under 28 U.S.C. § 1391(b)(2) and (3).

COUNT I – Breach of Contract

9. R+L repeats all previous allegations contained in this Complaint.

10. Subsequent to January 1, 2013, R+L provided motor carrier services to transport shipments of goods for PC Connection between various points in the United States pursuant to a written master agreement between the parties and individual written bill of lading contracts. A copy of the master agreement is attached as Exhibit “A. Examples of the bill of lading contracts are attached as Exhibit “B.” A majority of these shipments originated at the PC Connection warehouse located at 2840 Old State Route 73, Wilmington, OH 45177.

11. R+L issued invoices for payment for these services to an agent for PC Connection, ACS Traffic, PO Box 538702, Cincinnati, OH 45253. R+L received payments for a number of such invoices, but payments then ceased. A Customer Statement listing the dates and amounts of unpaid invoices is attached as Exhibit “C.”

12. R+L has performed all conditions, covenants, and promises required by it on its part to be performed in accordance with the terms and conditions of the master agreement, the bill of lading contracts and the portions of the publically available tariffs incorporated by reference in the master agreement and the bill of lading contracts.

13. The total amount due for the invoices listed on Exhibit “C” is such invoices at the time of shipment is \$62,821.83.

14. R+L has demanded payment of the above amount but no payments have been received.

WHEREFORE, Plaintiff demands Judgment against Defendant in the amount of \$62,821.83, or such other amount as this Court shall find to be justified, together with interest, costs and attorney fees.

COUNT II - Open Book Account

15. R+L repeats all previous allegations contained in this complaint.

16. PC Connection is indebted to R+L on an open book account for money due, which as of the date of filing this Complaint is not less than \$62,821.83 together with interest, costs and attorney's fees, as set forth on the Customer Statement attached as Exhibit "C."

WHEREFORE, Plaintiff demands Judgment against Defendant in the amount of \$62,821.83, or such other amount as this Court shall find to be justified, together with interest, costs and attorney fees.

COUNT III - Account Stated

17. R+L repeats all previous allegations contained in this Complaint.

18. PC Connection is indebted to R+L because an account was stated in writing by and between R+L and PC Connection in which it was agreed that PC Connection was indebted to R+L.

19. As a result, an amount not less than \$62,821.83, together with interest, costs and attorney's fees, is due and unpaid despite R+L's demand, as set forth on the Customer Statement attached as Exhibit "C."

WHEREFORE, Plaintiff demands Judgment against Defendant in the amount of \$62,821.83, or such other amount as this Court shall find to be justified, together with interest, costs and attorney fees.

COUNT IV - Quantum Meruit

20. R+L repeats all previous allegations contained in this Complaint.

21. Preceding the commencement of this action, PC Connection became indebted to R+L in the sum of not less than \$62,821.83 for the reasonable value of labor and services

performed at the request of PC Connection by R+L. The sum of not less than \$62,821.83 was and is the reasonable value of said labor and services. The sum of \$62,821.83 has not been paid and there is now due, owing and unpaid from PC Connection to R+L the sum of \$62,821.83, together with interest, costs and attorney's fees.

WHEREFORE, Plaintiff demands Judgment against Defendant in the amount of \$62,821.83, or such other amount as this Court shall find to be justified, together with interest, costs and attorney fees.

COUNT V – Request For Declaratory Relief – Accord and Satisfaction

22. R+L repeats all previous allegations contained in this Complaint.

23. On or about August 13, 2013, PC Connection issued its bill of lading No. 109995 requesting that R+L pick up a shipment of PC Connection products at PC Connection's Wilmington, Ohio, warehouse for transportation to Columbia, South Carolina. A copy of this bill of lading is attached as Exhibit "B," page 1.

24. The bill of lading stated that the goods requested to be transported were subject to "NMFC # 116030 sub 7."

25. By claim filed September 4, 2013 (copy attached as Exhibit "D," page 1), PC Connection alleged that R+L was responsible for the loss of 24 computer notebooks from this shipment, with a weight of 312 pounds, alleging that such notebooks had a combined value of \$39,818.64.

26. The notation "NMFC # 116030 sub 7" refers to a commodity description number contained in the 1000 series of the National Motor Freight Classification ("NMFC"), a tariff publication used in truck transportation which sets rules governing transportation of particular

items. A copy of the page of the NMFC effective on the date of the shipment in question containing item number 116030 sub 7 is attached as Exhibit "E."

27. The notations accompanying "NMFC # 116030 sub 7" indicate that liability for loss or damage to commodities described by this item is limited to \$25.00 per pound.

28. On the date in question, an internal tariff published for the account of R+L alone contained a limited liability provision covering the same commodities as those allegedly lost, providing for that liability for loss or damage was limited to \$2.00 per pound. (See Exhibit "F")

29. On or about December 20, 2013, PC Connection issued its bill of lading No. 113635 requesting that R+L pick up a shipment of PC Connection products at PC Connection's Wilmington, Ohio, warehouse for transportation to Ontario, California. A copy of this bill of lading is attached as Exhibit "B," page 2.

30. The bill of lading stated that the goods requested to be transported were subject to "NMFC # 116030 sub 7."

31. By claim filed January 23, 2014 (copy attached as Exhibit "D", page 2), PC Connection alleged that R+L was responsible for the loss of 16 items from this shipment, with a combined weight of 265 pounds. The claim stated that the valuation measure to be used was \$5.00 per pound and that the amount due was \$1,325.00.

32. On or about December 23, 2013, PC Connection issued its bill of lading No. 113597 requesting that R+L pick up a shipment of PC Connection products at PC Connection's Wilmington, Ohio, warehouse for transportation to New York, New York. A copy of this bill of lading is attached as Exhibit "B," page 3.

33. The bill of lading stated that the goods requested to be transported were subject to "NMFC # 116030 sub 7."

34. By claim filed January 23, 2014 (copy attached as Exhibit "D," page 3), PC Connection alleged that R+L was responsible for the loss of 63 computer notebooks from this shipment, with a weight of 166 pounds. The claim stated that the valuation measure to be used was \$5.00 per pound and that the amount due was \$866.00.

35. Following receipt of the PC Connection claims regarding the three shipments referenced above, the parties negotiated concerning the amount to be paid on these claims. PC Connection took the position that because the master agreement stated that the only pertinent tariff that applied to this shipment was NMFC 1000, the \$25.00 per pound limit in NMFC 116030 sub 7 should apply. R+L took the position that because NMFC 116030 provided that carriers could file superseding tariff items, the limit of \$2.00 per pound in the R+L tariff should apply. The correspondence on this issue between the parties is attached as Exhibit "G."

36. The final result of this correspondence was that R+L agreed to accept PC Connection's position. The parties agreed that checks and credits would be issued granting PC Connection a total benefit of \$27,975.00 with respect to the losses alleged on the three involved shipments.

37. Between February 1, 2014, and April 18, 2014, R+L issued checks to PC Connection or reduced the amounts of charges otherwise owing to R+L by PC Connection in a combined amount of \$27,975.00.

38. By letters dated April 18, 2014, and May 14, 2014, PC Connection through counsel has taken the position that R+L was liable to PC Connection with respect to the three above shipments in the combined amount of \$174,000, to be reduced only by the amount of \$27,975.00 in payments or credits extended by R+L, and claimed entitlement to an offset against amounts otherwise due to R+L by PC Connection.

39. The facts set forth in paragraphs 22 through 37 above constitute an accord and satisfaction of all issues regarding the three referenced claims for loss, upon which R+L is entitled to rely with binding legal effect.

WHEREFORE, R+L asks that the Court issue a declaratory order to resolve the claimed liability alleged by PC Connection, determine that R+L has no additional liability with respect to alleged losses of product raised by the three claims referenced in this Count V, and deny the validity of any offsets based on these claims to the liability of PC Connection to pay R+L its freight charges as claimed by Counts I through IV above.

COUNT VI – Recovery - Limitation of Liability - \$2.00 per Pound

40. R+L repeats all previous allegations contained in this Complaint.

41. In the event that the Court should deny R+L's claim on accord and satisfaction as set forth in Count V, R+L asserts that the applicable limitation on its liability for the alleged losses of goods described in that Count is \$2.00 per pound as described in its tariff attached as Exhibit "F."

42. Application of the \$2.00 per pound limit of liability to the three alleged losses in question reduces R+L's liability for those losses to \$1,486.00

43. R+L has given PC Connection payments and credits totaling \$27,975.00 in connection with the accord and satisfaction described in Count V, which payments and credits exceeded the amount of R+L's liability under Exhibit "F" by \$26,489.00.

44. If the accord and satisfaction is not allowed, R+L is entitled to recover \$26,489.00 from PC Connection based on the limitation of liability provided by the tariff attached as Exhibit "F."

WHEREFORE, in addition to the Judgment demanded in Counts I – IV above, Plaintiff

demands Judgment against Defendant in the amount of \$26,489.00, or such other amount as this Court shall find to be justified, together with interest, costs and attorney fees.

COUNT VII– Declaratory Order – Limitation of Liability - \$25.00 per Pound

45. R+L repeats all previous allegations contained in this Complaint.

46. In the event that the Court should determine that R+L is not entitled to declaratory relief due to accord and satisfaction pursuant to Count V and is not entitled to judgment as requested in Count VI, R+L asks that the Court enter an order determining that the applicable limitation of liability with regard to the three shipments described in Count V is \$25.00 per pound as set forth in NMFC 116030.

47. As set forth in Count V, R+L has paid or credited PC Connection with all amounts due to PC Connection regarding the three shipments in question based on a limitation of liability to \$25.00 per pound.

WHEREFORE, R+L asks that the Court issue a declaratory order to resolve the claimed liability alleged by PC Connection, determine that R+L has no additional liability with respect to alleged losses of product raised by the three claims referenced in Count V, and deny the validity of any offsets to the liability of PC Connection to pay R+L its freight charges as claimed by Counts I through IV above.

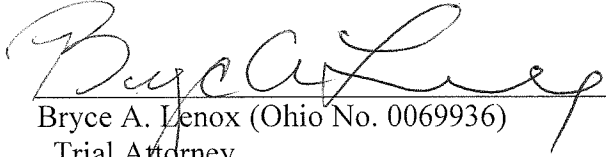
PRAYER FOR RELIEF

WHEREFORE, R+L hereby requests:

- A. Judgment against Defendant in the amount of \$89,310.83 , or such other amount as this Court shall find to be justified, together with interest, costs and attorney fees.

- B. A declaratory order to resolve the claimed liability alleged by PC Connection, determine that R+L has no additional liability with respect to alleged losses of product raised by the three claims referenced in this Count V, and deny the validity of any offsets based on these claims to the liability of PC Connection to pay R+L its freight charges as claimed by Counts I through IV above.
- C. Costs, attorneys' fees and such other relief as this Court deems proper.

Respectfully submitted,



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